
Introduced by Senator Hollingsworth

February 24, 2006

An act to add Sections 17053.19 and 23619 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1768, as introduced, Hollingsworth. Income and corporation taxes: credits: school contributions.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would provide a credit, for a qualified contribution, as defined, made by a taxpayer to a school tuition organization, or a public school, as defined.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17053.19 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.19. (a) For each taxable year beginning on or after
- 4 January 1, 2006, there shall be allowed as a credit against the
- 5 "net tax," as defined by Section 17039, an amount equal to any
- 6 qualified contribution made by the taxpayer during the taxable
- 7 year to a school tuition organization, or a public school, in an
- 8 amount not to exceed five thousand dollars (\$5,000) per taxable
- 9 year.

1 (b) The aggregate amount of tax credits authorized under this
2 section and Section 23619 shall not exceed twenty million dollars
3 (\$20,000,000) for each calendar year.

4 (c) For purposes of this section:

5 (1) “Public school” means any kindergarten, elementary, or
6 secondary school established by the Legislature, or by municipal
7 or district authority.

8 (2) “Qualified contribution” means any cash contribution that
9 has been authorized as eligible for the credit in accordance with
10 subdivision (f).

11 (3) (A) “School tuition organization” means a charitable
12 organization in this state that is exempt from federal taxation
13 under Section 501(c)(3) of the Internal Revenue Code, and that
14 allocates at least 90 percent of its annual revenue for educational
15 scholarships or tuition grants to children to allow them to attend
16 any qualified school of their parents’ choice. In addition, to
17 qualify as a school tuition organization, the charitable
18 organization shall provide educational scholarships or tuition
19 grants to students without limiting availability to students of only
20 one school.

21 (B) For purposes of this paragraph:

22 (i) “Handicapped student” means a student who has any of the
23 following conditions:

24 (I) Hearing impairment.

25 (II) Visual impairment.

26 (III) Preschool delay.

27 (IV) Speech or language impairment.

28 (ii) “Qualified school” means a nongovernmental preschool,
29 elementary or secondary school, or any combination thereof,
30 including any school for handicapped students, which is located
31 in this state that does not discriminate on the basis of race, color,
32 handicap, familial status, or national origin, and that satisfies the
33 requirements prescribed by law for private schools in this state
34 on January 1, 2001.

35 (d) Each school tuition organization or public school that
36 receives a contribution shall provide the taxpayer with a receipt
37 setting forth the amount of the contribution.

38 (e) To be eligible for the credit under this section the taxpayer
39 shall do all of the following:

1 (1) File an application for the tax credit with the
2 Superintendent of Public Instruction, in the form or manner as
3 prescribed by the Superintendent.

4 (2) Provide the Superintendent of Public Instruction with a
5 copy of the receipt from a school tuition organization or public
6 school as specified in subdivision (d).

7 (3) Provide the Superintendent of Public Instruction with his
8 or her taxpayer identification number, and in the case of a
9 partnership, the taxpayer identification numbers of all partners.

10 (4) Provide a copy of the certification issued by the
11 Superintendent of Public Instruction, as specified in subdivision
12 (f), to the Franchise Tax Board. If the taxpayer fails to comply
13 with this requirement, no credit shall be allowed to that taxpayer
14 under this section for any taxable year unless the taxpayer
15 subsequently complies.

16 (f) The Superintendent of Public Instruction shall do all of the
17 following:

18 (1) Certify that the taxpayer has made contributions as
19 specified in subdivision (a).

20 (2) Obtain the taxpayer's identification number, and in the
21 case of a partnership, the taxpayer identification numbers of all
22 partners.

23 (3) Process and approve, or reject all applications on a
24 first-come, first-served basis.

25 (4) For approved applications, issue certificates for the tax
26 credit in an aggregate amount that shall not exceed the limit
27 specified in subdivision (b).

28 (5) Provide the taxpayer with a copy of the certification to
29 retain for the taxpayer's records.

30 (6) Provide an annual listing to the Franchise Tax Board of the
31 qualified taxpayers who were issued certificates for the credit
32 authorized by this section and Section 23619, and the amount of
33 contribution made by each taxpayer.

34 (g) No credit may be allowed under this section for any
35 contributions that the taxpayer designates to be used for the
36 direct benefit of a specific student or of any dependent of a
37 taxpayer.

38 (h) Any qualified contributions made under this section shall
39 supplement, and not supplant, existing governmental funding for
40 scholarships.

SEC. 2. Section 23619 is added to the Revenue and Taxation Code, to read:

23619. (a) For each taxable year beginning on or after January 1, 2006, there shall be allowed as a credit against the “tax,” as defined by Section 23036, an amount equal to any qualified contribution made by the taxpayer during the taxable year to a school tuition organization, or a public school, in an amount not to exceed one hundred thousand dollars (\$100,000) per taxable year.

(b) The aggregate amount of tax credits authorized under this section and Section 17053.19 shall not exceed twenty million dollars (\$20,000,000) for each calendar year.

(c) For purposes of this section:

(1) “Public school” means any kindergarten, elementary, or secondary school established by the Legislature, or by municipal or district authority.

(2) “Qualified contribution” means any cash contribution that has been authorized as eligible for the credit in accordance with subdivision (f).

(3) (A) “School tuition organization” means a charitable organization in this state that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, and that allocates at least 90 percent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents’ choice. In addition, to qualify as a school tuition organization, the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to students of only one school.

(B) For purposes of this paragraph:

(i) “Handicapped student” means a student who has any of the following conditions:

(I) Hearing impairment.

(II) Visual impairment.

(III) Preschool delay.

(IV) Speech or language impairment.

(ii) “Qualified school” means a nongovernmental preschool, elementary or secondary school, or any combination thereof, including any school for handicapped students, which is located in this state that does not discriminate on the basis of race, color,

1 handicap, familial status, or national origin, and that satisfies the
2 requirements prescribed by law for private schools in this state
3 on January 1, 2001.

4 (d) Each school tuition organization or public school that
5 receives a contribution shall provide the taxpayer with a receipt
6 setting forth the amount of the contribution.

7 (e) To be eligible for the credit under this section the taxpayer
8 shall do all of the following:

9 (1) File an application for the tax credit with the
10 Superintendent of Public Instruction, in the form or manner as
11 prescribed by the Superintendent.

12 (2) Provide the Superintendent of Public Instruction with a
13 copy of the receipt from a school tuition organization or public
14 school as specified in subdivision (d).

15 (3) Provide the Superintendent of Public Instruction with the
16 taxpayer's identification number, or in the case of an "S"
17 corporation, the taxpayer identification numbers of all
18 shareholders.

19 (4) Provide a copy of the certification issued by the
20 Superintendent of Public instruction, as specified in subdivision
21 (f) to the Franchise Tax Board. If the taxpayer fails to comply
22 with this requirement, no credit shall be allowed to that taxpayer
23 under this section for any taxable year unless the taxpayer
24 subsequently complies.

25 (f) The Superintendent of Public Instruction shall do all of the
26 following:

27 (1) Certify that the taxpayer has made contributions as
28 specified in subdivision (a).

29 (2) Obtain the taxpayer's identification number, and in the
30 case of an "S" corporation, the taxpayer identification numbers
31 of all shareholders.

32 (3) Process and approve, or reject all applications on a
33 first-come, first-served basis.

34 (4) For approved applications, issue certificates for the tax
35 credit in an aggregate amount that shall not exceed the limit
36 specified in subdivision (b).

37 (5) Provide the taxpayer with a copy of the certification to
38 retain for the taxpayer's records.

39 (6) Provide an annual listing to the Franchise Tax Board of the
40 qualified taxpayers who were issued certificates for the credit

1 authorized by this section and Section 17053.19, and the amount
2 of contribution made by each taxpayer.

3 (g) No credit may be allowed under this section for any
4 contributions that the taxpayer designates to be used for the
5 direct benefit of a specific student.

6 (h) Any qualified contributions made under this section shall
7 supplement, and not supplant, existing governmental funding for
8 scholarships.

9 SEC. 3. This act provides for a tax levy within the meaning of
10 Article IV of the Constitution and shall go into immediate effect.